

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Banker License of:

No. 09-BD062-BNK

3 **J & R LENDING INC. AND CATHERINE  
ZEBARTH**

4 8277 East San Salvador Drive  
5 Scottsdale, Arizona 85258

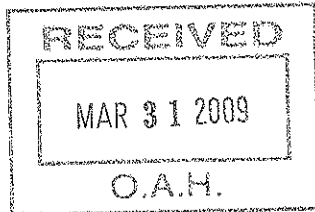
**ORDER OF SUMMARY SUSPENSION  
AND NOTICE OF HEARING**

6 Respondents.

7 The Arizona Department of Financial Institutions (the "Department") hereby finds that J & R  
8 Lending Inc. and Catherine Zebarth, Responsible Individual ("Respondents") have violated the  
9 provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the  
10 public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-945 and 41-  
11 1092.11(B).

12 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage banker  
13 license held by Respondents, effective immediately, pending the proceedings for revocation or other  
14 action commenced this date. **This suspension is effective immediately.**

15 EFFECTIVE this 31<sup>st</sup> day of March, 2009.



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Robert D. Charlton  
Assistant Superintendent of Financial Institutions

**NOTICE OF HEARING AND COMPLAINT**

21 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138,  
22 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative  
23 Hearings, an independent agency, and is scheduled for May 7, 2009, at 1:30 p.m., at the Office of  
24 Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the  
25 "Hearing").

26 The purpose of the Hearing is: (1) to determine whether grounds exist to suspend or revoke

1 Respondents' mortgage banker license; (2) to order any other remedy necessary or proper for the  
2 enforcement of statutes and rules regulating mortgage bankers in Arizona pursuant to A.R.S. §§ 6-  
3 123 and 6-131; and (3) to impose a civil money penalty pursuant to A.R.S. § 6-132.

4 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of  
5 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied  
6 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to  
7 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the  
8 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office  
9 of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed  
10 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative  
11 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the  
12 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final  
13 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law  
14 Judge is specifically prohibited from entering.

15 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**  
16 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue  
17 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of  
18 Administrative Hearings.

19 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by  
20 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity  
21 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses  
22 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to  
23 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),  
24 any person may appear on his or her own behalf or by counsel.

25 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be  
26 made by a court reporter or by electronic means. Any party that requests a transcript of the

1 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

2 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant  
3 Attorney General Erin O. Gallagher, (602) 542-8935, 1275 West Washington, Phoenix, Arizona  
4 85007.

#### 5 NOTICE OF APPLICABLE RULES

6 The hearing will be conducted pursuant to A.A.C. R20-4-1201 through R20-4-1220 and the  
7 rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through  
8 R2-19-122. A copy of these rules is enclosed.

9 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**  
10 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'  
11 position or defense and shall specifically admit or deny each of the assertions contained in this  
12 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain  
13 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall  
14 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.  
15 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an  
16 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.  
17 Any defense not raised in the answer is deemed waived.

18 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**  
19 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true  
20 and admitted and the Superintendent may take whatever action is appropriate, including (1)  
21 suspension or revocation of Respondents' license; (2) any other remedy necessary or proper for the  
22 enforcement of statutes and rules regulating mortgage bankers in Arizona pursuant to A.R.S. §§ 6-  
23 123 and 6-131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

24 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial  
25 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or  
26 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,

1 Arizona 85007 and to Assistant Attorney General Erin O. Gallagher, Consumer Protection &  
2 Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

3 **Persons with disabilities may request reasonable accommodations such as interpreters,**  
4 **alternative formats, or assistance with physical accessibility.** Requests for special  
5 accommodations must be made as early as possible to allow time to arrange the accommodations. If  
6 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

### 7 FINDINGS

8 1. Respondent J & R Lending, Inc. ("J & R") is a California corporation authorized to  
9 transact business in Arizona as a mortgage banker, license number BK 0906885, within the meaning  
10 of A.R.S. §§ 6-941, *et seq.* The nature of J & R's business is that of making, negotiating, or offering  
11 to make or negotiate loans secured by Arizona real property, within the meaning of A.R.S. § 6-  
12 941(5).

13 2. Respondent Catherine Zebarth ("Ms. Zebarth") is the Responsible Individual and an  
14 employee of J & R. Ms. Zebarth is authorized to transact business in Arizona as a mortgage banker  
15 within the meaning of A.R.S. § 6-943(F).

16 3. J & R's principal place of business is located at 8277 East San Salvador Drive,  
17 Scottsdale, Arizona 85258. J & R has three (3) licensed branch locations: BKBR 010847, located at  
18 1700 West Burbank Boulevard, Burbank, California 91506; BKBR 0111387, located at 5000 North  
19 Parkway Calabasas, Suite 302, Calabasas, California; and BKBR 0111389, located at 1100 Mohawk  
20 Street, Suite 100, Bakersfield, California 93309.

21 4. On or about September 24, 2008, the Department learned that an Indictment had been  
22 filed against Ms. Zebarth in June 2008 by the Federal Grand Jury for the District of Arizona  
23 regarding a "cash back" scheme that included wire fraud, conspiracy to commit wire fraud,  
24 transactional money laundering, and conspiracy to commit money laundering involving Ms. Zebarth  
25 and others.

26 5. The Department received a Certified Copy of the Indictment *U.S. v. Daniel Morar, et*

*al.*, No. CR 08-0612-PHX-NVW-8, filed on June 18, 2008, in the United States District Court, District of Arizona, charging Ms. Zebarth with six (6) counts of Wire Fraud, one (1) count of Conspiracy, ten (10) counts of Money Laundering, one (1) count of Conspiracy to Commit Money Laundering, and eighteen (18) counts of Aiding and Abetting.

6. The conduct described above constitutes an immediate threat to the public health, safety, and welfare warranting immediate suspension of Respondents' mortgage banker license.

7. The conduct described above constitutes grounds for the suspension of Respondents' mortgage banker license.

LAW

1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage banker business and with the enforcement of statutes, rules, and regulations relating to mortgage bankers.

2. Ms. Zebarth has been charged with six (6) counts of Wire Fraud, one (1) count of Conspiracy, ten (10) counts of Money Laundering, one (1) count of Conspiracy to Commit Money Laundering, and eighteen (18) counts of Aiding and Abetting, and a Certified Copy of the Indictment has been filed with the Superintendent, which is grounds for suspension of Respondents' mortgage banker license, pursuant to A.R.S. § 6-945(B) and (C), pending trial of the criminal charges currently filed against Ms. Zebarth in the United States District Court, District of Arizona.

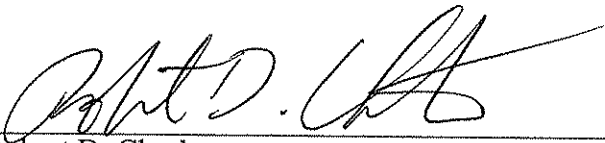
3. Pursuant to A.R.S. §§ 6-945(B) and (C) and 41-1092.11(B), the conduct described above constitutes an immediate threat to the public health, safety and welfare warranting immediate suspension of Respondents' mortgage banker license.

4. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage bankers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above described violations or other grounds for disciplinary action, the Superintendent may: (1)

1 suspend or revoke Respondents' mortgage banker license pursuant to A.R.S. § 6-945; (2) order any  
2 other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage  
3 bankers in Arizona under A.R.S. §§ 6-123 and 6-131; and (3) impose a civil money penalty pursuant  
4 to A.R.S. § 6-132.

5 DATED this 31<sup>st</sup> day of March, 2009.

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8 Robert D. Charlton  
9 Assistant Superintendent of Financial Institutions  
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12 ORIGINAL of the foregoing filed this 31<sup>st</sup>  
13 day of March, 2009, in the office of:

14 Felecia Rotellini  
15 Superintendent of Financial Institutions  
16 Arizona Department of Financial Institutions  
17 ATTN: Susan Longo  
18 2910 N. 44th Street, Suite 310  
19 Phoenix, AZ 85018  
20

21 COPY mailed/delivered same date to:

22 Lewis D. Kowal, Administrative Law Judge  
23 Office of the Administrative Hearings  
24 1400 West Washington, Suite 101  
25 Phoenix, AZ 85007  
26

Erin O. Gallagher, Assistant Attorney General  
Attorney General's Office  
1275 West Washington  
Phoenix, AZ 85007

Richard Fergus, Licensing Manager  
Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

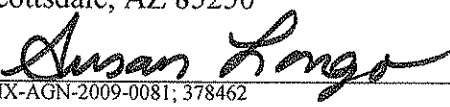
1 Robert D. Charlton, Assistant Superintendent  
2 Arizona Department of Financial Institutions  
2910 N. 44th Street, Suite 310  
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE, by  
Certified Mail, Return Receipt Requested to:

5 J & R Lending Inc.  
6 Attn: Catherine Zebarth, Responsible Individual  
8277 E. San Salvador Dr.  
7 Scottsdale, AZ 85258  
Respondents

8 Catherine Zebarth, Responsible Individual  
9 J & R Lending Inc.  
6773 N. 79<sup>th</sup> Pl.  
10 Scottsdale, AZ 85250  
Respondents

11 Catherine Zebarth, Statutory Agent for:  
12 J & R Lending Inc.  
6773 N. 79<sup>th</sup> Pl.  
13 Scottsdale, AZ 85250

14   
PHX-AGN-2009-0081; 378462